

Application No. 10/092,033

Filed: March 5, 2002

TC Art Unit: 3739

Confirmation No.: 7761

REMARKS

The Applicant respectfully traverses the rejections of claims 1-11 and 21-26 under 35 U.S.C. 112, first paragraph. The Office Action dated August 28, 2006 has simply made reference to earlier Office Actions in which this rejection was set forth. Applicant has attempted to address the issues set forth therein.

Applicant describes several embodiments in the specification in which different sources of light can be used to induce tissue autofluorescence. The first embodiment is described in the summary of the invention in connection with Wang Application (60/072,455) at page 5, lines 4-9, again at page 8, lines 2-5, and again at page 10, lines 13-14. Wang et al used an argon-ion laser at 365 nm, a ND:Yag laser at 355 nm, a krypton ion laser at 407 nm and 413 nm, as well as a mercury arc lamp for UV excitation. The Applicant notes that Wang described the use of an ultraviolet source to induce fluorescence for diagnostic purposes. The Applicant also notes that the parent application of the present application issued as U.S. Patent No. 6,364,829 with claims directed to the ultraviolet light source shown in Fig. 10A, for example. However, the present application involves claims directed to a third embodiment described at page 10, lines 15-16. Applicant has made no admission that a diode laser light source was known in the art as an ultraviolet light source for inducing

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tissue autofluorescence. Wang et al does not describe the use of a diode laser for UV excitation. To conclude, as set forth in the Office Action dated November 22, 2004, that the reference to a diode laser at page 10, lines 13-16, that this is "mentioned as one of two other light sources that have previously been used" is simply erroneous. There is no basis for concluding this - rather this section makes reference to the system described in Wang as one source, and to another new system, that using the diode laser as a source.

With respect to claim 7, the application is clear (at page 79, lines 12-13 and lines 29, for example) that the term "reference light" is used generically to refer to several different embodiments. One involves obtaining a full color reference image and the other, using the red channel in a color detector to use as a red reference image. It is possible, using a filter as described in the application, to selectively illuminate in the red portion of the spectrum.

Claims 1-6, 8-11, 21, 23 and 24 have been rejected under 35 U.S.C. 103(a) as being unpatentable over Kaneko in view of Poindexter.

Poindexter ('423) is relied upon to show the use of diode laser. However the '423 patent relates to a sensor for measuring oxygen content levels in the exhaust gases of internal combustion

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engines. There is no teaching or suggestion in this reference that such a source could be used to induce tissue autofluorescence in the claimed range suitable for diagnostic purposes. The systems and methods employed by Poindexter do not indicate that such a source would be capable of providing illuminations for fluorescence imaging as set forth in the present claims. One skilled in the art would not look to the '423 patent for such teaching.

Applicant respectfully requests reconsideration hereof. The Examiner is encouraged to telephone the undersigned attorney to discuss any matter that would expedite allowance of the present application.

Respectfully submitted,

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